MEETING OF THE NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

Raleigh, North Carolina March 14, 2013 **Minutes**

The North Carolina Environmental Management Commission met in the Ground Floor Hearing Room of the Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina. Chairman, Stephen T. Smith presided. The following persons attended for all or part of the meeting.

COMMISSION MEMBERS:

| Christopher J. Ayers | William L. Hall | Kevin Martin | Dr. Charles H. Peterson |
|----------------------|----------------------|----------------------|--------------------------|
| Yvonne C. Bailey | Benne C. Hutson | Jeff Morse | Amy E. Pickle |
| Marvin S. Cavanaugh | Dr. Ernest W. Larkin | Mayor Darryl D. Moss | Clyde "Butch" Smith, Jr. |
| Tom Ellis | Steve P. Keen | Dr. David Peden | Stephen Smith |
| | | | Steve W. Tedder |

DIVISION OF WATER QUALITY:

| Tom Belnick | Karen Higgins | Jeff Manning | Jay Sauber |
|-----------------|-------------------|------------------|-----------------|
| Ted Bush | Steve Kaasa | Susan Massengale | Kathy Stecker |
| Kevin Bowden | Evan Kane | Matt Matthews | Lois Thomas |
| Janice Bownes | Cyndi Karoly | Cam McNutt | Julie Ventaloro |
| Connie Brower | Elizabeth Kountis | Sarah Nienow | Chuck Wakild |
| Amy Chapman | Gary Kreiser | Robert Patterson | Debra Watts |
| Linda Culpepper | Keith Larick | Ken Pickle | |
| Richard Gannon | Annette Lucas | Diane Reid | |

ATTORNEY GENERAL'S OFFICE: Frank Crawley

DIVISION OF AIR QUALITY: Sheila Holman

Joelle Burleson Patrick Knowlson Michael Pjetraj Angela Terry

DIVISION OF WATER RESOURCES: Tom Fransen

I. Preliminary Matters

Chairman Smith called the meeting of the North Carolina Environmental Management Commission to order at 9:00 a.m. He began by asking if any member knows of any conflict of interest or any matter that might create the appearance of conflict of interest or as the statute reads the possibility of a conflict of interest.

Dr. Peden: I recuse myself from 13-07 on the agenda.

Dr. Peterson: made a motion to approve the minutes. Second by Mr. Cavanaugh. None opposed and the motion passed unanimously.

Chairman Smith: We will move to our action items

13-07 Request for Approval to Convert Orange Water and Sewer Authority's Jordan Lake Water Supply Allocation from a Level II to Level I

Note that Dr. Peden has recused himself.

Summary (Tom Fransen): Thank you Chairman Smith. The request we have before you this morning is to approve the Orange Water and Sewer Authority's, (we refer to it as OWASA's) Jordan Lake water supply allocation from a Level II to a Level I. I thought to start out with that, this is something you don't deal with every day. It's just to remind you that the Commission is the body that's been authorized to deal with Jordan Lake allocations. Part of that responsibility is to deal with the two different levels of allocation. As a way of background, a Level II allocation is a mechanism by which, we put together to allow local governments to defer costs. If you weren't going to be using your allocation within the first five years of receiving one, they could defer the costs of actually having to pay the full amount until they started using it. Level II allocation holders only have to pay the interests on the loan, their annual operation and maintenance O&M costs. Once they convert to a Level I, and start using the allocation, the way it currently works is, they have to basically pay a balloon payment, and then on the annual ongoing costs would be the annual O&M costs. In the case of OWASA, if their request is approved their costs would be a little over \$214,000 dollars for this conversion II up to a Level I. I guess this has just been an accounting tool for us to defer costs. OWASA did send a letter to the board requesting conversion at the end of December last year. We have staff that's been working with us the OWASA Board for some time now. We've kind of reviewed their need. We feel their request is reasonable. They're in the process of updating their drought management plan, or water shortage response plant to start using Jordan Lake as part of their drought mitigation effort. To be able to do that, they need to have the Level I to have access to the water. They also need the Level I so that they can complete the intergovernmental agreements needed to have access. We're not talking about building a new intake. They're just talking about agreements with the Town of Cary and Durham to be able to get the finished water through the Cary Plant, and through the Durham system into their system. There has been some controversy about this request. To my knowledge, this controversy has all been within the realm of the OWASA board members. There have been three areas that there has been some concern internally. One has been water quality. There's some concern that there's a public health risk to using Jordan Lake water. To our knowledge, Cary and Apex have been able to meet all the water quality standards of the State Water Drinking Act. There's been no issue with the safe drinking water. Their second concern has been growth management. They're concerned that access to Jordan Lake will lead to unwanted growth and development. From my experience,

almost 30 years to doing this, other policies really control growth, not water management. The few places that I've seen them try to use to use water management for growth control have not been successful. So I'm not really feeling that this is a real concern. The last concern that people have voiced that we're aware of, is kind of a loss of conservation ethic. If by having Jordan water they would somehow lose the conservation and water efficiency efforts that's been going on, I feel OWASA has done a good job and will continue to do a good job. Looking across the state since the recent droughts, I think a lot of water systems will tell you the water use hasn't come back up since the 2007 so they've been actually hurting for revenue. So I don't really see this being an issue for them either. Like I said, since the Board has made this one more request, we're assuming all these internal issues have been resolved. Based on our review, we think it's reasonable to move forward with approving their Level II to a Level I allocation. Are there any questions?

Dr. Peterson: I recognize that, at least on the appearance issue, I need to recuse myself from this item.

Motion for approval of the request by mayor Moss seconded by Mr. Tedder passed unanimously with no discussion.

13-08 Hearing Officer's Report on Clarification of 02Q .0102 Permitting Exemption (509)

Summary (Benne Hutson): Thank you Mr. Chairman. These are the two matters where I served as hearing officer. This first one deals with really a clarification of the exemption requirements under the air quality regulations, specifically 15A NCAC 02Q .0102. A public hearing was held on this matter in Kannapolis on January 15th of this year. What we're dealing with is really two parts of the air quality regulations. First of all, there are some specific exemptions under the toxic air regulations. There are also some broader rules regarding exemptions from general requirements to obtain a permit. There was a previous rulemaking that determined that activities from general permitting requirements, which should also be exempt from air toxics permitting in demonstration requirements. The problem was looking at the language. It was not clear that it applied to smaller sources. This rulemaking is needed to clarify that smaller sources are not required to be included in an air toxic permitting, and also to keep their exemptions from the general permitting requirement end. There were no public commenters at the public hearing. There were no written comments that were submitted in response to the public hearing, and in consultation with staff, my recommendation is for adoption of the rule change.

Motion for approval by Mr. Hutson seconded by Dr. Larkin approved unanimously.

13-09 Request for Adoption of Hearing Officer's Recommendations on Proposed Changes Hearing Officer's Report on Revision of Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) Rules Applicability (513) and Clarifications (511)

Summary (Benne Hutson): Thank you Mr. Chairman. This involves proposed changes to a number of rules. Once again, the public hearing on this matter was also held January 15th of this year in Kannapolis. These are changes that are being driven by federal rule EPA. They are

looking at the nonattainment for ozone in the Greater Charlotte area. EPA said that the state needs to amend its reasonably available control technology rules as they specifically apply in that nonattainment region. The Clean Air Act requires RACT for all sources addressed by water quality control technique guidelines in areas that are classified as moderate or worse than moderate, in this case for ozone. Currently the RACT rules apply to major sources which have VOC emissions of a hundred tons or more per year. The various rule changes will achieve the changes that EPA has requested that be made. First of all it would extend the RACT requirements to all sources in the Charlotte nonattainment area that are subject to control technique guidelines. It will also define the range of facilities under applicable sections of the Clean Air Act and allow for transition of requirements to go from necessary to contingency requirements in the event that the area is re-designated as attainment. Basically, it comes into attainment, these go out, but then if it goes back in the contingency is there for it to come back into play. It will also address contingency plan in the event that there's a violation of the 1997 ozone standard. There's also some flexibility that's provided for alternate compliance situations and it also clarifies an exemption for laboratories that have met less than 800 lbs. of VOCs per month. There were no comments at the public hearing. There were three written comments of any substance. One expressed support for amendments to the rules governing industrial cleaning solvents. We also received comments from the printing industry of the Carolinas which is called PICA that raised a number of issues that were related to the coding ink and adhesive operations conducted. One of those comments regarded consistency making sure the language of the regulations were consistent with the express requirements of the control technique guidelines. There were also just what I would consider some typographical and grammatical things in terms of eliminating some redundant language and making sure the language is expressively the same as it was in the federal regulations. One of the comments they requested was to basically use a formulaic emission calculation to determine applicability and staff in consulting with me determined that was really not one that we would adopt. It's not an approach that has been traditionally used in North Carolina of having a straight formula because the formula often doesn't apply in every case. Rather we look at it on a case by case basis and have resources within the division to provide assistance to the regulated community in making those determinations. We also received comments from another industry group called the Specialty Graphic Imaging Association. They raised an interesting issue which is the new and emerging technologies that are creating printing sectors which have never existed before. The one here is what they call the digital printing facilities and what they wanted to do was to include digital printing and screen printing in the definition of what is called graphic arts operations, because those are exempt from permitting. If you're within the graphic arts operations you're exempt This was recently done in San Francisco and the Bay area air quality from permitting. management district. My own view and staff's was that the proposal had some merit. The problem was that it was outside the scope of what we had gone out for notice on in the rulemaking and the fear if we wanted to include it, we would have to go back out with a revised rulemaking, more public comment and hearing. We'd rather get this done to comply with the EPA requirements but I've talked with staff and Director Holman and it's an issue that I've asked them to look at, not only in this specific situation but for other emerging technologies that weren't there when the rules were written. Whether they should or shouldn't be exempt and if they should be, we might want to address that in a more comprehensive format in another rulemaking. We also got a comment from EPA that basically said they had no comments, which I consider substantive from the federal agency. So based upon the public comments that were received in working with staff, the recommendation of staff, and my recommendations as well is that the rulemaking as presented be adopted by the Commission, and I will make that recommendation in the form of a motion, Mr. Chairman.

Chairman Smith: Thank Mr. Hutson. I neglected to call on Ms. Bailey. She chaired the Air Quality Committee yesterday in Ms. Deerhake's absence, and the Air Quality Committee heard these two matters, did they not?

Ms. Bailey: Yes that's correct. We reviewed them and we were in agreement with proceedings.

Chairman Smith: Thank you ma'am. We have a motion by Mr. Hutson. Second by Mr. Keen. No discussion and motion passed unanimously.

13-11 Request to Proceed to Hearing on Revision of Arsenic Acceptable Ambient Level (AAL) (514)

Summary (Joelle Burleson): Good Morning Commissioners. As Chairman Smith indicated I'm here today to request that we proceed to hearing on the revision of the arsenic acceptable ambient level. The Air Quality Committee has heard about this for some time now and we offered the opportunity for any additional questions or comments yesterday at the Air Quality Committee meeting. North Carolina's health-risk based air toxics rules provide for local scale evaluation of the maximum impact of air toxic emissions from facilities at or beyond the property boundary through site specific emissions estimates and modeling. Under those rules the facilities have to demonstrate through modeling that their predicted concentrations at or beyond the property boundary are below the AALs where to define in our toxic air pollutant guidelines. In addition to the AALs there are emission rates requiring a permit or toxic permit emission rates also known as TPERs that are used as screening levels to determine whether or not facility-wide emissions need to be compared and have further modeling analysis. The TPERs are conservatively set values and we use those as mentioned, as a screening tool. The particular amendments today are proposed based upon recommendation of North Carolina's Scientific Advisory Board that serves to advise the Secretary and the Commission regarding the necessary level of control of particular toxic air pollutants for protection of public health and the environment. Through the public process that the SAB conducts they have reviewed the AAL for arsenic and inorganic arsenic compounds, and chose a lung cancer health endpoint based on human health studies to base their recommendation on. The SAB has recommended that the AAL be revised to a level within a range of 1.6 x 10⁻⁶ to 3.0 x 10⁻⁶ mg/m³ and specifically recommended that the AAL be $2.1 \times 10^{-6} \text{ mg/m}^3$. The rules that need to be revised in order to incorporate the recommendation of the SAB are 15A NCAC 02D .1104 toxic air pollutant guidelines where the AALs are housed, and 15A NCAC 02Q .0711 emission rates requiring a permit where the TPERs are housed. We expect that the proposed amendments will reduce regulatory burden and still maintain protection of public health. Approximately 137 fewer facilities would potentially be affected by the revised AAL and the corresponding TPERs. We've conducted an economic assessment or fiscal note which was part of your package that's been approved by the Office of State Budget and Management. We've also included in your package a summary table of the impacts. OSBM and the fiscal note estimate that there would be

\$196,000 in annualized avoided costs to the regulated community, beginning in the first year due to less restricted permit conditions or not having to install additional controls. The cumulative avoided costs reached \$980,000 in a five year period of analysis based on the assumption that there are two percent or more potentially affected facilities each year that experience a cost savings. The annual avoided cost for the DAQ modeling effort due to the higher AAL and TPER is estimated to be approximately \$14,700. The fiscal note does result in a substantial impact under the Administrative Procedures Act (APA) and that it is greater than \$500,000 impact in aggregate to all affected parties in a twelve month period.

Today we would request that the Commission proceed to public hearing on the revision of the AAL and associated TPER.

Ms. Bailey: The Air Quality Committee heard this matter yesterday and we agree with the request to go forward to public hearing.

Chairman Smith: Would you make that in the form of a motion?

Ms. Bailey: I certainly will. Mr. Cavanaugh seconded. There were no questions and the motion passed unanimously.

13-12 Request Approval of 2014 303(d) Listing Methodology

Summary (Kathy Stecker): Good Morning. Yesterday we presented this information to the Water Quality Committee and were given permission to bring the 2014 303(d) Listing Methodology to you today for approval. Here's where we are in the process. Assuming that you approve the listing methodology today, we would then apply the methods and conduct our internal review on the results. Then there would be a 60 day public review of the resulting 303(d) list beginning next January. Then we could come back to you a year from now and brief you on the list and the comments we received. We believe that we could still meet the April 1, 2014 deadline for submittal to EPA. It would be time for public review and comment on the listing methods again. At your meetings in January we said we would draft two documents in addition to a revised 2014 listing methodology. One was a formal response to comments on the listing methodology itself and you have that as attachment B - 2014 assessment process comments and responses. We also said we would draft a comprehensive description of the entire assessment process, not just the 303(d) part. That's also one of your attachments, attachment C -2014 water quality assessment process. After your meetings in January we prepared some initial drafts of those documents and then we held a meeting on February 18th with those who submitted comments, some EMC members and others who were interested. We got feedback on the drafts about how well we did addressing the comments and providing the additional information. We've revised those two documents based on the feedback we received during and after that February 18th meeting. I've summarized here some of the comments we addressed in the 2014 assessment process comments and responses document. These are just examples. I can provide more information on these or any of the other comments. Where more information was requested we incorporated that information into the comprehensive document, the 2014 water quality assessment process. I've listed here some examples of the information we compiled in that document. Again, I would be glad to answer any specific questions about it. Before I

highlight the changes incorporated into this assessment process, let's do a quick review of the assessment categories.

You'll recall that each individual assessment is assigned to one of five categories. Assessments and categories one and two meet criteria and assessments and categories Four and Five exceed criteria, and if we have no information or inclusive information, that's category Three. Category Five is the 303(d) list, waters that exceed criteria and require TMDLs or some other kind of management strategy. This is also what EPA approves or disapproves, category Five the 303(d) list. Category Four waters also exceed criteria but they already have a TMDL or some other strategy in place, mercury as a recent example of a category four assessment. Now I'll highlight the changes. We mentioned fish tissue in January and that hasn't changed since then, using advisories only when they are supporting fish tissue data from that particular assessment unit. We plan to work with stakeholders to have guidance in place to move waters from category Four to category One for mercury by September. We've also included an additional statistical step to our existing 10% exceedance allowance for certain numeric criteria. I'll say a little more about that. This would apply to criteria for which we use the 10% exceedance allowance alone, now. That is for criteria that don't include duration and frequency already, that just say not to exceed. Turbidity and chlorophyll-a dissolved oxygen ph and metals are examples. Category Four and Five assessments would be where greater than 10% of samples exceed criteria with greater than or equal to 90% statistical confidence. Category three would now be greater than or equal to 10% of samples exceed criteria with less than 90% statistical confidence. Category One remains the same as the method we use now. I'm not going to go into detail about exactly how to do the analysis but I can show you an example of what the effect would be. We're using the same data from the 2012 assessment for these two methods for ease of comparison. As I mentioned category One remains the same. If we apply the 90% statistical confidence as described, the changes would be seen in category Three, Four and Five only. Specifically, in this turbidity example, most assessments currently in category four and five would be in category three inconclusive using the new method. The effect of moving assessment from category four and five to category three would be the same for other parameters which this would apply too. We don't know what any of the actual numbers would be that would move into category three, because we don't have the 2014 data set yet.

So back to the 303(d) listing methodology, your attachment A which is only for category Five determinations. We're asking for your approval. It includes these changes that I've just described. Thank you.

Dr. Peterson: The Water Quality Committee has spent a good deal of quality time in the last few meetings talking about this issue. It came to culmination yesterday and in the work that the department had done up till then and brought us this particular method of resolving uncertainty. I mean the basic issue is that what we do to follow our own rules and follow EPA guidelines is a process of sampling and taking sampling data, and figuring out from those data whether, in this case, waters should be listed in category Four or Five, or whether they should be listed in category Three. Category Three says we have such uncertainty that we simply can't, on the basis of the sampling information today, say what exactly that category is. This process that actually came from Jay Sauber and his group who do a lot of high quality science to support our actions here and had the notion, and has used this for years to try to sort out what areas, what particular locations, I should say fall in a category with confidence, and what locations still have enough uncertainty that there are consequences of listing it that we don't want to incur yet. We should

wait and get more information before we make those choices. That particular philosophy is certainly in accord with what has been expressed by many, perhaps most around this table, and that is now, if we pass this item going to be the way that we do this.

With that on the basis of the Water Quality Committee's discussion yesterday, I move for approval of this staff request. Mr. Hall seconded.

Chairman Smith: Are there questions of Ms. Stecker first?

Mr. Smith: On your turbidity, you just do random samples or are you getting data from public water supply where all run of the river intakes, they test turbidity all the time.

Kathy Stecker: We don't routinely receive data from water supply intakes. We would accept data that met quality assurance guidelines, but typically we're in a stream or a lake that's ambient data.

Mr. Smith: Have we lifted the mercury statewide yet? Can I fish this spring?

Kathy Stecker: Sure.

Mr. Smith: Ok.

Mr. Hutson: Just a follow up on the data point. One thing that was discussed in the Water Quality Committee, an issue I had raised before, which was making people aware of the ability to submit data. There is going to be a change to the water quality assessment or document that will say when they start the process. A notice will go out on the ListServe that they're starting the process and if you want to submit data here's where you go on the website to determine what the requirements are for the submission of data. So I appreciate that. That change was made yesterday and will be incorporated into the final document.

Kathy Stecker: We sent out a reminder to the ListServe yesterday.

Chairman Smith: Other questions or comments? We have a motion and a second. The motion carried unanimously.)

Chairman Smith: So with that we move into status reports by the committee chairs.

II. Status Reports

A. Water Allocation Committee Mayor Darryl Moss, Chairman

We had a few items yesterday that we attended to. The first one we've already taken care of. That was the request for the approval from OWASA to move from Level II to Level I. We've already taken care of that earlier today. The second item and Mr. Chair I'll have to apologize. I missed something here. Yesterday the Water Allocation Committee received a request to approve proceeding with the public comment section of the draft central coastal plains capacity use area five year assessment.

Mayor Moss: One other thing out of that, Jeff Morse who serves on the Water Allocation Committee has requested that a Dr. Spruill who was involved in the initial work on this that he would speak before the Water Allocation Committee.

Mr. Morse: Richards Spruill.

Mayor Moss: Ok. Thank you. We can gain more knowledge and information there. Then lastly, we had an informational item that I will go ahead and share with the Commission. Yvonne, Butch and I drove to Mint Hill on March 4th with staff to be hearing officers at the reopening of the Charlotte Mecklenburg inter-basin transfer. This is where we will be considering either modifying or removing condition three from their IBT. We got considerable comment in favor of doing that and that's about all I'll say about it to this point. But that comment period will be open till March 31st and that's our report.

[The Steering Committee did not meet]

B. Air Quality Committee Ms. Yvonne Bailey, Acting Chairman

Yes I was chairing the Air Quality Committee meeting on behalf of Marion Deerhake. The items we reviewed were the first four items that were part of the EMC agenda including the item that had been delayed until the next meeting. I did want to point out that the item that was delayed due to the lateness of the EPA comments won't put us behind any scheduling conflicts with trying to get the rule enacted within the deadlines that we have. So there was no issue in putting off that decision. As for the informational items we had an update on hydraulic fracturing by Mike Abraczinskas. He did a very good report on what kinds of permitting would be required should that industry start getting permits in our state and felt that there would be only minor changes needed to the current air quality. With that I think that was all we had.

C. Groundwater Committee Kevin Martin, Chairman

We only had two information items but they were both pretty important. One was an update on aquifer storage and recovery in North Carolina. Of which if my memory serves, I think DMC approved a pilot study that Greenville did way back in 2002 or something like that. Wilmington has also been doing that and to kind of dumb it down to my level, it's basically where during times of high flows they take water from the rivers and streams, treat it and then inject it into the ground for use later during low flow events in the stream. It's really interesting innovation and Dr. Spruill who's pretty much in the middle of everything was one of the big innovators and idea people on that. So any time you can hear him speak that's always worthwhile. But Mr. Slusser gave us an update on that. It's moving a little more slowly than anticipated, but they are progressing with those and we'll get follow-up reports. That was one of the conditions the EMC had was that we be updated as to how things are going with these, but it's a very complex process so they're not moving quite as quickly as we thought they would. But they are moving. The second item was how DENR is responding to pesticide contamination incidents. If you've been watching the news or reading the paper you've seen several areas in Raleigh that have had some residential wells affected. One up in the mountains among others and we were presented by Mr. Kane with a really good presentation of several areas and what they have done, what they've been doing and what they found. Take home message is, a lot of this seems to be legacy related contamination, not a current source because many of the things they're finding are

pesticides that haven't been in use for over 30 years. Unfortunately, they're having a hard time pinning down where it's from; whether it was old, old historical agriculture or possibly even due to urbanization and treatment of foundations for termites. But the take home for me is there is a very good link on the division website that they have developed called "Hot Topics" that you click on and someone who's concerned, it has just about every question you may think of that you would want to know. What's happening, what has DENR found, how do I test my well, what does it cost and all these kinds of things, and they should be commended for being proactive to that. Obviously, this is a very sensitive and concerning issue to any individual who is on well water. If you guys would like to get that link just email me or email Evan and they'll point you right to it. But it is on the DENR homepage down in the bottom left corner where it says "Hot Topics" which will take you there. That was the conclusion of our meeting yesterday.

The NPDES Committee and the Renewable Energy Committee did not meet.

D. Water Quality Committee Dr. Charles H. Peterson, Chairman

We had four items on our agenda and we dealt with four items yesterday. The first of those was a discussion and ultimately approval of the specific explicit 303(d) listing methodology that Kathy Stecker just presented to you today and that we voted on and approved. The second item we dealt with was a request for a major variance from the Neuse River riparian area protection rules for a day care facility in Cary. We struggled with this one as we have struggled with its similar predecessors, and recognized that we need to think a lot harder about the rules that we wrote, and what sorts of evidence meets those rules. So in that regard we tabled this issue and sent it back to staff to try to develop a more explicit case for this facility of why one could vote to say that these met the spirit and the substance of the rules that we've written for and granted such major variances. We may need to solicit unofficial guidance from the attorney general's office just to identify what latitude we have in these decisions. This may seem like a little late in this process but better late than never. A third item we had was to note that over 10 years ago we had moved in, I believe it was Water Quality Committee, to delegate an approval process that we have and delegate that to the department. We never signed the documents to do that and consequently, that came up before us for signature which I entered in accordance with our wishes of the Water Quality Committee yesterday. The fourth item was perhaps the most interesting. That was an update on how the various accounting tools that we use for nitrogen and phosphorus inputs to waterways, how they showed us our progress in Falls Lake and Jordan Lake relative to the rules that we had written and what sort of reductions had been achieved since the 2006, or in one case we had to use the 2007 baseline data. What those showed was quite good progress on the way to what is a final goal that is set for some years hence, which I can't remember quite exactly but it looks like we are well on the way to being able to meet the requirements for agriculture and achieving the reductions. We had some interesting discussions of that but I'm sure we as a full Commission will be updated on as the time comes.

Chairman Smith: Thank you sir. That concludes the committee reports and we move into concluding remarks. Any Commission members have concluding remarks?

IV. Concluding Remarks

Director Holman: Thank you Chairman Smith. I just want to take a moment to thank Mr. Hutson for being the hearing officer on the variety of air quality rules and appreciate all of his patience in dealing with some very complicated issues.

Director Wakild: No comments Mr. Chairman.

Chairman Smith: Comments by counsel?

Frank Crawley: Quickly bring you up to date. You did several contested cases and a declaratory ruling in about the last 18-24 months. If you remember the Rockingham 401 certification dealing with Lake Tillery, the Court of Appeals upheld your decision in December and Rockingham decided not to seek review in Supreme Court. So your decision is final there. In the Rose Acres, that's the egg laying operation down in a Hyde County case in Superior Court, the Judge upheld your decision to remand that matter back for administrative hearing, and they did not seek an appeal at the Court of Appeals. Currently the House of Raeford civil penalty is in Superior Court on judicial review. The PCS Phosphate 401 certification is currently in Wake County Superior Court for judicial review. The declaratory ruling on the ash ponds at the electric generating facilities is currently on judicial review in Wake County Superior Court. That's it.

With no further comments the meeting adjourned at 09:52 a.m.

(NOTE: Attachments are on file in the Division of Water Quality with the Official Minutes.)

Lois C. Thomas, Recording Clerk

By Commission Members

By Directors

By Counsel

By Chairman

Adjournment AG03-14-13